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SAGC/Mr. Hatch/smp/ 1/2 Jul 81

July 2, 1981

MEMORANDUM FOR THE SECRETARY OF THE ARMY

SUBJECT: Status Report on the Joint Army/DIA Grill Flame Program (U)
INFORMATION MEMORANDUM

(U) The purpose of this memorandum is to inform you of what has happened to this program since you approved the Army's participation in the joint activity on May 27.

(S) At the time this program was submitted to you for your review and approval, our cover memorandum informed you that our office and the DOD General Counsel's Office were in agreement as to the applicability of Procedure 18, "Experimentation on Human Subjects, "DOD 5240-1-R (Tab A). We also represented to you that, if you approved Army's participation in the program, DIA's participation would then be submitted to the Secretary or Deputy Secretary of Defense for review and approval.

(S) About two weeks ago an attorney from this office made an inquiry of DIA as to the status of their attempt to obtain DOD Secretariat approval. He was informed that, on the basis of guidance from the DOD General Counsel's office, DIA did not believe that DOD Secretariat approval was required for their participation in the joint program. We also learned that the Army had transferred the money that it had agreed to contribute to the program to DIA. At that time we immediately raised the issue to the DOD General Counsel and also informed all participants that no additional Army funds should be committed to the program until the Procedure 18 question was resolved.

(DoD,GC)

(S) This past Monday I learned that Mr. Taft decided not to submit the program to Mr. Weinberger for his review and approval, but rather to inform him of the program through an information memorandum. Both because I believe that the joint program constitutes human experimentation and since we represented to you that Mr. Weinberger would review and approve DIA's participation in the program, I met with Mr. Taft to discuss our posture. Mr. Taft requested that I prepare a memorandum justifying our position that the joint program constitutes human experimentation. As explained below, it will at least be a week before I will be able to respond to Mr. Taft's request. Until then, Mr. Taft has agreed to accept calls from interested parties, such as [redacted] since he acknowledges that the Army has not been the source of the delay in implementing this program. *****

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(S) The issue of whether or not the program is human experimentation is not so much a legal or policy question as it is a medical and research

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this!*CLASSIFIED BY: ACSI.
REVIEW ON: 1 July 2001ASG
OGCMr. Hatch
Mr. Spurlock

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question. Therefore to resolve this issue an attorney from this office will meet with BG Rapmund of The Surgeon General's Office and Chairperson of the Human Subjects Research Review Board. For as long as this office has been involved in Grill Flame, we have been in communication with BG Rapmund and his advice has formed the basis of our decisions regarding human experimentation. Before rendering his opinion on the proposed joint program, however, BG Rapmund desires to review the proposed Grill Flame protocol and seek more information regarding several other questions that he has regarding the Army's Grill Flame involvement. In addition, he is leaving on TDY today and will not be back until next Wednesday, so we will not be able to talk to him until then and thus will not be able to respond to Mr. Taft until the end of next week. I bring this delay to your attention because I realize that you are interested in a rapid resolution of the problem.

(U) If you wish to further discuss this matter, I am available.

(Signed)
DELBERT L. SPURLOCK, JR.
General Counsel